



DSC-001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:	)	
<b>Eugene Amdur, et al.</b>	)	
	)	Art Unit 2134
Serial No.: <b>09/552,345</b>	)	
	)	
Confirm. No.: <b>3244</b>	)	
	)	
Filed: <b>April 19, 2000</b>	)	Examiner
	)	<b>Ellen C. Tran</b>
For: <b>Computer System Security</b>	)	
<b>System</b>	)	

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 41.37**

Sir:

The Appellants hereby submit their Appeal Brief pursuant to 37 C.F.R. § 41.37  
concerning the above-referenced Application.

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**(i)**

**REAL PARTY IN INTEREST**

The Assignee of all right, title and interest to the above-referenced Application is  
Hewlett-Packard (Canada) Co., a Canadian corporation.

**(ii) RELATED APPEALS AND INTERFERENCES**

Appellants, Appellants' legal representative, and the assignee of the present application are not aware of any prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or have a bearing on the Board's decision in the pending appeal.

(iii)

## **STATUS OF CLAIMS**

Claims 1- 63 are pending in the Application.

Claims rejected: 25-30, 45, 54 and 55

Claims allowed: none

Claims confirmed: none

Claims withdrawn: 1-24, 31-44, 46-53 and 56-63

Claims objected to: none

Claims canceled: none

Appellants appeal the rejections of claims 25-30, 45, 54 and 55. These claim rejections were the only claim rejections present in the Office Action (“Action”) dated July 28, 2005, which was Final.

(iv)

## **STATUS OF AMENDMENTS**

A final rejection was made July 28, 2005. No amendments to the claims were requested to be admitted after the non-final rejection.

(v) **SUMMARY OF CLAIMED SUBJECT MATTER**

*Concise explanations of exemplary forms of the claimed invention:*

**With respect to independent claim 25**

An exemplary form of the invention is directed to a graphical user interface for a security service for a computer network (Page 6, lines 12-20). The computer network comprises defined users (10, 12) (Figure 1), services and resources (56) (Figure 3). The graphical user interface (14, 16, 26, 28) (Figure 1 and 5; Page 23, lines 5-8) displays a grid comprising nodes (94) laid out on a first and on a second axis, user labels (92) corresponding to defined users, and resource labels (90) corresponding to the defined services and resources. Each user label labels nodes aligned relative to the first axis of the grid. Each resource label labels nodes aligned relative to the second axis of the grid. In addition, the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, correspond to the user and resource labels (Figure 5; Page 23, lines 5-15).

**With respect to independent claim 29**

Another exemplary form of the invention is directed to a graphical user interface for a security service for a computer network (Page 6, lines 12-20). The computer network comprises defined users (10, 12) (Figure 1) represented by a business relationship tree data structure (130-134, 140, 142) (Figures 8 and 9). The computer network further comprises services and resources (56) (Figure 3), represented by a resource tree data structure (100-124) (Figure 6). The graphical user interface comprises display means (14, 16, 26, 28) (Figure 1 and 5; Page 23, lines

5-8) for displaying a grid comprising nodes (94) laid out on a first axis and on a second axis, user labels (92) corresponding to the users in the business relationship tree data structure, and resource labels (90) corresponding to the defined services and resources in the resource tree data structure. Each user label labels nodes aligned relative to the first axis of the grid. Also, each resource label labels nodes aligned relative to the second axis of the grid. In addition, the nodes in the grid corresponding to access policies for the defined users and defined services and resources, correspond to the user and resource labels (Figure 5; Page 23, lines 5-15).

**With respect to independent claim 54**

Another exemplary form of the invention is directed to a method for displaying access policies for a security service for a computer network (Page 6, lines 12-20). The computer network comprises defined users, services and resources. The method comprises the step of displaying, on a computer display unit, a grid having nodes (94), laid out on a first and on a second axis. The method also comprises the step of displaying, on the grid, unit user labels corresponding to the user data (92). Each user label labels nodes aligned relative to the first axis of the grid. In addition, the method comprises displaying, on the grid, resource labels (90) corresponding to the services and resources data. Each resource label labels nodes aligned relative to the second axis of the grid. In addition, the nodes in the grid correspond to access policies for the defined users and defined services and resources for the computer network corresponding to the user and resource labels (Figure 5; Page 23, lines 5-15).

**(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds to be reviewed in this appeal are:

Whether Appellants' claims 25, 26, 27, 29, 54 and 55 are unpatentable under 35 U.S.C. § 102(b) over Flint, et al., U.S. Patent No. 6,453,419 ("Flint"); and

Whether Appellants' claims 28, 30 and 45 are unpatentable under 35 U.S.C. § 103(a) over Flint, in further view of Wiegel U.S. Patent No. 6,484,261.



(vii)

## **ARGUMENT**

### **Flint, U.S. Patent No. 6,453,419**

Flint is directed to a system and method for implementing a security policy. The system is operative to build access control rules with a graphical user interface (Figure 6a-6d, 7 and 8). The rules are displayed in the form a decision tree comprised of nodes (60-66) (Figure 4) which make true or false decisions. Each decision leads to a branch which contains more nodes (Figure 4, Column 4, lines 8-11).

### **Wiegel U.S. Patent No. 6,484,261**

The Wiegel patent is directed to graphical management of data communication policies in a network management system. The system comprises an administration component 206 which provides a mechanism for constructing representations of abstract network security policies. After a security policy is constructed, it is represented in a policy tree (316) as a named policy. (Figures 2 and 3; Column 15, lines 57-60).

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## **The 35 U.S.C. § 102 (b) Rejections**

### **The Applicable Legal Standards**

Anticipation pursuant to 35 U.S.C. § 102 requires that a single prior art reference contain all the elements of the claimed invention arranged in the manner recited in the claim. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Anticipation under 35 U.S.C. § 102 requires, in a single prior art disclosure, each and every element of the claimed invention arranged in a manner such that the reference would literally infringe the claims at issue if made later in time. *Lewmar Marine, Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 USPQ2d 1766, 1768 (Fed. Cir. 1987).

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To establish inherency the Office must prove through citation to prior art that the feature alleged to be inherent is “necessarily present” in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

#### **Rejection under 35 U.S.C. § 102(b) over Flint**

Claims 25, 26, 27, 29, 54, and 55 were rejected under 35 U.S.C. § 102(b) as being anticipated by Flint. These rejections are respectfully traversed.

## **Claim 25**

Claim 25 is an independent claim directed to a graphical user interface for a security service for a computer network. The Action at page 2 alleges that the recited grid is interpreted as the GUI shown in Figures 6a-6d, 7, and 8. Appellants disagree.

Claim 25 specifically recites a grid comprising nodes laid out on a first and on a second axis. The grid comprises "user labels corresponding to defined users, each user label labelling nodes aligned relative to the first axis of the grid". The grid also comprises "resource labels corresponding to the defined services and resources, each resource label labelling nodes aligned relative to the second axis of the grid". In addition, claim 25 recites that "the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels".

Nowhere do the GUIs shown in Figures 6a-6d, 7, and 8 show grids with these recited features. These Figures in Flint show decision trees which do not include user or resource labels on axes of a grid. Also, these Figures in Flint do not show or suggest that the displayed decision trees even have an organization which would enable nodes in the decision trees to have corresponding user labels and resource labels on axes of the grid.

As shown in Figure 6a, a square icon (102) is a decision node which checks a connection request to determine if the request is accessing permitted IP addresses or hosts. If so, control moves to Allow node 104. If not control moves to Deny node 106 (Column 20, lines 30-34). As shown in Figure 6b, the decision tree may include a "user authentication filter" node (108). Also, as shown in Figure 6c, the decision tree may include a "user/group decision node" (110) (Column 20, lines 36-47).

Flint does not disclose or suggest a grid comprising nodes which are labeled along a first axis with user labels and are labeled on a second axis with resource labels. Rather, the nodes taught in Flint (e.g. user/group decision node 110, deny node 112, and smart filter 114) are only represented by icons. Nowhere in Figures 6a-6d, 7, and 8 of Flint are there shown user labels along one axis or resource labels along another axis which correspond to the nodes of Flint's decision tree.

In addition, claim 25 specifically recites that the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, correspond to the user and resource labels. Nowhere does Flint teach or suggest that it would be even possible to add such user labels and resource labels for purposes of labelling the node icons in Flint. For example, nowhere does Flint disclose or suggest that any of the node icons aligned along a vertical axis (e.g. icons 102, 110, 108, 104 in Figure 7) or a horizontal axis (e.g. icons 110, 120, 112 in Figure 7) correspond to a common user on one axis or a common resource on a second axis.

In addition, the rejection relies on conclusory statements, not evidence of record. For example, to support the rejection of claim 25, the Action relies on conclusory statements such as "the alignment of objects to an axis is well known in the art when designing computer programs to be displayed on a computer screen," and "it is also well known in the art there are many different ways to represent information. Take for example your typical Excel spreadsheet . . . ." (pages 2-3). The Action's mere assertions do not constitute the required prior art evidence of record, and thus lack substantial evidence support. The determination of patentability must be based on evidence of record, not on unsubstantiated assertions. As the evidence of record does

not support the rejection, the claims should be allowed. *In re Zurko*, supra. *In re Lee*, supra. MPEP § 2144.03.

The Action also states (page 6) with respect to claim 54 that Flint discloses the "displaying, on the grid, unit user labels . . ." step (Column 5, lines 29-31) as well as the "displaying on the grid, resource labels . . ." step (Column 6, lines 25-37). Appellants disagree.

Column 5, lines 29-31 of Flint referenced in the Action only discusses a user or group listed in a node 70.1. It appears that the single node icon labelled 70.1 shown in Figure 4 is intended to graphically correspond to one or more users or groups. However, nowhere does Flint disclose or suggest that user labels be displayed along an axis of a grid corresponding to the position of the node 70.1. Thus nowhere in Figure 4 or anywhere else in Flint is there disclosed or suggested the recited feature (in claim 25) of "user labels corresponding to defined users, each user label labelling nodes aligned relative to the first axis of the grid".

In addition, Column 6, lines 25-37 of Flint referenced in the Action only discuss features of decision and filter nodes. Nowhere in this portion of Flint or anywhere else in Flint is there disclosed or suggested displaying resource labels along a second axis of a grid corresponding to the position of either a decision or filter node. Thus nowhere does Flint disclose or suggest the recited feature (in claim 25) of "resource labels corresponding to the defined services and resources, each resource label labelling nodes aligned relative to the second axis of the grid".

The Action also states that the alignment to the first axis (for the user labels) is inherent in a GUI. It appears by this statement that the Action acknowledges that Flint does not expressly disclose at least the user labels along a first axis. However, Appellants disagree that this feature would then be inherent.

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To establish inherency the Office must prove through citation to prior art that the feature alleged to be inherent is "necessarily present" in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

With respect to Flint, user labels are not "necessarily present". For example, it is theoretically possible (although not disclosed) that any user or users associated with the user or group node 70.1 in Figure 4 could be displayed as a listing in a different window by double clicking on the node icon. Thus there is no inherent need in Flint for the GUI which displays the node 70.1 to include a user label associated with the node along an axis. Further, as Flint teaches that the node 70.1 may correspond to a list of users or groups (plural) (Column 5, lines 31-32) , the graphical difficulty in displaying labels for a list of users in the same location on an axis of a grid for a node provides further evidence that user labels are not "necessarily present" in Flint.

In addition, claim 25 recites that the nodes in the grid correspond to the **user and resource labels**. Nowhere does Flint disclose or suggest that any of its described nodes correspond to both user labels and resource labels included on respective axes of a grid. Thus even if Flint discloses (which it does not) or it was inherent in Flint (which it is not) for a grid to include either user labels or resource labels, nowhere does Flint disclose or suggest as recited in claim 25 that "the nodes in the grid corresponding to access policies for the defined users and

defined services and resources for the computer network, corresponding to the user and resource labels".

Flint does not explicitly or inherently teach the features and relationships recited in claim 25. For all of these many reasons, Flint does not anticipate claim 25. Therefore, Appellants respectfully submit that the 35 U.S.C. § 102(b) rejection should be withdrawn. It follows that the rejections of claims 26-29 which depend from claim 25 should also be withdrawn.

### **Claim 26**

Claim 26 depends from claim 25. Column 3, lines 31-47 of Flint do not as alleged in the Action show the features and relationships recited in claim 26. This referenced portion of Flint discusses defining Regions (e.g. Sales Office, Worldwide Customer Service) to which one or more networks are assigned (Column 3, lines 39-43). This referenced portion of Flint does not disclose or suggest a user definition component for defining a business relationship tree data structure representing a set of the defined users. Although Figure 3 includes text adjacent the R&D network box (32) corresponding to USER1, USER2, etc., nowhere does Flint disclose or suggest that such text is defined using a user definition component which is capable of defining a business relationship tree data structure representing a set of defined users. Further, nowhere does Flint disclose or suggest that the system of Flint is capable of displaying user labels in a graphical user interface corresponding to the business relationship tree data structure defined using a user definition component.

Flint does not explicitly or inherently teach these recited features and relationships and therefore does not anticipate claim 26.

### **Claim 27**

Claim 27 depends from claim 25. Column 3, line 61, to column 4, line 7, of Flint does not as alleged in the Action show the features and relationships recited in claim 27. Rather, this referenced portion of Flint describes features of nodes that can be included in a decision tree. Flint states that nodes can check for criteria as the time of day, whether the connection uses the appropriate authentication or encryption, the user or groups initiating the connection request, or the IP address or host of the connection. Also, Flint states that each node is compared against an incoming connection request and it is determined whether the connection is allowed or denied based on the result of the node comparison.

Although this referenced portion of Flint discloses the ability of Flint to create decision trees to represent an access rule, nowhere does Flint disclose or suggest taking the information from such a decision tree and producing a different view of the underlying data in which nodes corresponding to access policies are included on a grid and labelled on one axis with a corresponding user label and another axis by a corresponding resource label.

Nowhere does Flint disclose or suggest that the system of Flint is capable of displaying resource labels in a graphical user interface corresponding to the resource tree data structure defined using a resource definition component

Flint does not explicitly or inherently teach these recited features and relationships and therefore does not anticipate claim 27.



### **Claim 29**

Claim 29 is an independent claim directed to a graphical user interface for a security service for a computer network. The Action at page 2 alleges that the recited grid is interpreted as the GUI shown in Figures 6a-6d, 7, and 8. Appellants disagree.

Claim 29 specifically recites a grid comprising nodes laid out on a first and on a second axis. The grid comprises "user labels corresponding to the users in the business relationship tree data structure, each user label labelling nodes aligned relative to the first axis of the grid". The grid also comprises "resource labels corresponding to the defined services and resources in the resource tree data structure, each resource label labelling nodes aligned relative to the second axis of the grid". In addition claim 29 recites that "the nodes in the grid corresponding to access policies for the defined users and defined services and resources, corresponding to the user and resource labels".

Nowhere do the GUIs shown in Figures 6a-6d, 7, and 8 show grids with these recited features. These Figures in Flint show decision trees which do not include user or resource labels on axes of a grid. Also these Figures in Flint do not show or suggest that the displayed decision trees even have an organization which would enable nodes in the decision trees to have corresponding user labels and resource labels on axes of the grid.

As shown in Figure 6a, a square icon (102) is a decision node which checks a connection request to determine if the request is accessing permitted IP addresses or hosts. If so, control moves to Allow node 104. If not control moves to Deny node 106 (Column 20, lines 30-34). As shown in Figure 6b, the decision tree may include a "user authentication filter" node (108). Also

as shown in Figure 6c the decision tree may include a "user/group decision node" (110) (Column 20, lines 36-47).

Flint does not disclose or suggest a grid comprising nodes which are labelled along a first axis with user labels and are labelled on a second axis with resource labels. Rather the nodes taught in Flint (e.g. user/group decision node 110, deny node 112, and smart filter 114) are only represented by icons. Nowhere in Figures 6a-6d, 7, and 8 of Flint are there shown user labels along one axis or resource labels long another axis which correspond to the nodes of Flint's decision tree.

In addition, claim 29 specifically recites that the nodes in the grid corresponding to access policies for the defined users and defined services and resources, corresponding to the user and resource labels. Nowhere does Flint teach or suggest that it would be even possible to add such user labels and resource labels for purposes of labelling the node icons in Flint. For example, nowhere does Flint disclose or suggest that any of the node icons aligned along a vertical axis (e.g. icons 102, 110, 108, 104 in Figure 7) or a horizontal axis (e.g. icons 110, 120, 112 in Figure 7) correspond to a common user on a first axis or a common resource on a second axis.

In addition, the rejection relies on conclusory statements, not evidence of record. For example, to support the rejection of claim 29, the Action relies on conclusory statements such as "the alignment of objects to an axis is well known in the art when designing computer programs to be displayed on a computer screen" and "it is also well known in the art there are many different ways to represent information. Take for example your typical Excel spreadsheet . . . ." (pages 2-3). The Action's mere assertions do not constitute the required prior art evidence of record, and thus lack substantial evidence support. The determination of patentability must be

based on evidence of record, not on unsubstantiated assertions. As the evidence of record does not support the rejection, the claims should be allowed. *In re Zurko*, supra. *In re Lee*, supra. MPEP § 2144.03.

The Action also states (page 7) that Flint discloses the recited features of "user labels corresponding to the users in the business relationship tree data structure, each user label labelling nodes aligned relative to the first axis of the grid" at Column 5, lines 29-31. The Action also alleges that Flint discloses the recited features of "resource labels corresponding to the defined services and resources in the resource tree data structure, each resource label labelling nodes aligned relative to the second axis of the grid, the nodes in the grid corresponding to access policies for the defined users and defined services and resources, corresponding to the user and resource labels" at Column 6, lines 25-37. Appellants disagree.

Column 5, lines 29-31 of Flint referenced in the Action only discusses a user or group listed in a node 70.1. It appears that the single node icon labelled 70.1 shown in Figure 4 is intended to graphically correspond to one or more users or groups. However, nowhere does Flint disclose or suggest that user labels be displayed along an axis of a grid corresponding to the position of the node 70.1. Thus nowhere in Figure 4 or anywhere else in Flint is there disclosed or suggested the recited feature (in claim 29) of "user labels corresponding to the users in the business relationship tree data structure, each user label labelling nodes aligned relative to the first axis of the grid".

In addition, Column 6, lines 25-37 of Flint referenced in the Action only discuss features of decision and filter nodes. Nowhere in this portion of Flint or anywhere else in Flint is there discloses or suggested displaying resource labels along a second axis of a grid corresponding to

the position of either a decision or filter node. Thus nowhere does Flint disclose or suggest the recited feature (in claim 29) of "resource labels corresponding to the defined services and resources, each resource label labelling nodes aligned relative to the second axis of the grid".

The Action also states with respect to claim 54 that the alignment to the first axis (for the user labels) is inherent in a GUI. It appears by this statement that the Action acknowledges that Flint does not expressly disclose at least the user labels along a first axis. However, Appellants disagree that this feature would then be inherent.

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To establish inherency the Office must prove through citation to prior art that the feature alleged to be inherent is "necessarily present" in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

With respect to Flint, user labels are not "necessarily present". For example, it is theoretically possible (although not disclosed) that any user or users associated with the user or group node 70.1 in Figure 4 could be displayed as a listing in a different window by double clicking on the node icon. Thus there is no inherent need in Flint for the GUI which displays the node 70.1 to include a user label associated with the node along an axis. Further, as Flint teaches that the node 70.1 may correspond to a list of users or groups (plural) (Column 5, lines 31-32),

the graphical difficulty in displaying labels for a list of users in the same location on an axis of a grid for a node provides further evidence that user labels are not "necessarily present" in Flint.

In addition, claim 29 recites that the nodes in the grid correspond to the user and resource labels. Nowhere does Flint disclose or suggest that any of its described nodes correspond to both user labels and resource labels included on respective axes of a grid. Thus even if Flint discloses (which it does not) or it was inherent in Flint (which it is not) for a grid to include either user labels or resource labels, nowhere does Flint disclose or suggest as recited in claim 29 that "the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels".

The Action also states that Flint discloses the recited feature of "the computer network comprising defined users represented by a business relationship tree data structure" at Column 3, lines 31-47 and discloses the recited feature of "the computer network further comprising services and resources, represented by a resource tree data structure" at Column 6, lines 25-37. Appellants disagree.

Column 3, lines 31-47 of Flint discusses defining Regions (e.g. Sales Office, Worldwide Customer Service) to which one or more networks are assigned (Column 3, lines 39-43). This referenced portion of Flint does not disclose or suggest "defined users represented by a business relationship tree data structure". In addition, although Figure 3, includes text adjacent the R&D network box (32) corresponding to USER1, USER2, etc., nowhere does Flint disclose or suggest that such text shown in the drawing corresponds to "defined users represented by a business relationship tree data structure". Further nowhere does Flint disclose or suggest that the system

of Flint is capable of displaying user labels in a graphical user interface corresponding to defined users represented by a business relationship tree data structure.

As discussed previously, Column 6, lines 25-37 of Flint discusses defining features of decision and filter nodes for a decision tree. Thus it appears that the Action may regard the decision tree in Flint as corresponding to the recited feature of "a business relationship tree data structure". However, as discussed previously, the Action also argues that the decision tree in Flint as shown in Figures 6a-6d, 7 and 8 corresponds to the recited grid of nodes. Appellants respectfully submit that the decision tree shown in Flint is not disclosed as (or is capable of) corresponding to both the recited business relationship tree data structure and the recited grid comprising nodes laid out on a first axis and on a second axis with corresponding user and resource labels. Therefore Flint does not disclose or suggest at least one of these recited features.

Flint does not explicitly or inherently teach the features and relationships recited in claim 29. For all of these many reasons Flint does not anticipate claim 29. Therefore, Appellants respectfully submit that the 35 U.S.C. § 102(b) rejection should be withdrawn. It follows the rejection of claim 30 which depends from claim 29 should also be withdrawn.

#### **Claim 54**

Claim 54 is an independent claim directed to a method for displaying access policies for a security service for a computer network. The Action at page 2 alleges that the grid produced by the recited method is interpreted as the GUI shown in Figures 6a-6d, 7, and 8. Appellants disagree.

Nowhere do the GUIs shown in Figures 6a-6d, 7, and 8 show grids with the features produced according to the recited steps. For example, these Figures in Flint show decision trees which do not include user or resource labels on axes of a grid. Also, these Figures in Flint do not show or suggest that the displayed decision trees even have an organization which would enable nodes in the decision trees to have corresponding user labels and resource labels on axes of the grid.

As shown in Figure 6a, a square icon (102) is a decision node which checks a connection request to determine if the request is accessing permitted IP addresses or hosts. If so, control moves to Allow node 104. If not, control moves to Deny node 106 (Column 20, lines 30-34). As shown in Figure 6b, the decision tree may include a "user authentication filter" node (108). Also, as shown in Figure 6c, the decision tree may include a "user/group decision node" (110) (Column 20, lines 36-47).

Flint does not disclose or suggest a grid comprising nodes which are labelled along a first axis with user labels and are labelled on a second axis with resource labels. Rather, the nodes taught in Flint (e.g. user/group decision node 110, deny node 112, and smart filter 114) are only represented by icons. Nowhere in Figures 6a-6d, 7, and 8 of Flint are there shown user labels along one axis or resource labels long another axis which correspond to the nodes of Flint's decision tree.

Thus nowhere in Figures 6a-6d, 7, and 8 or anywhere else in Flint is there disclosed or suggested the steps of "displaying, on the grid, unit user labels corresponding to the user data, each user label labelling nodes aligned relative to the first axis of the grid" and "displaying on

the grid, resource labels corresponding to the services and resources data, each resource label labelling nodes aligned relative to the second axis of the grid".

In addition, claim 54 specifically recites the step of "displaying, on a computer display unit, a grid having nodes, laid out on a first and on a second axis . . . the nodes in the grid correspond to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels." Nowhere does Flint teach or suggest that it would be even possible to add such user labels and resource labels for purposes of labelling the node icons in Flint. For example, nowhere does Flint disclose or suggest that any of the node icons aligned along a vertical axis (e.g. icons 102, 110, 108, 104 in Figure 7) or a horizontal axis (e.g. icons 110, 120, 112 in Figure 7) correspond to a common user on one axis or a common resource on a second axis. Thus Flint does not disclose or suggest displaying a grid of nodes in the manner recited in the claim.

In addition, the rejection relies on conclusory statements, not evidence of record.. For example, to support the rejection of claim 54, the Action relies on conclusory statements such as, "... the alignment of objects to an axis is well known in the art when designing computer programs to be displayed on a computer screen" and, "It is also well known in the art there are many different ways to represent information. Take for example your typical Excel spreadsheet . . ." (pages 2-3). The Action's mere assertions do not constitute the required prior art evidence of record, and thus lack substantial evidence support. The determination of patentability must be based on evidence of record, not on unsubstantiated assertions. As the evidence of record does not support the rejection, the claims should be allowed. *In re Zurko*, supra. *In re Lee*, supra. MPEP § 2144.03.



The Action also states (page 6) with respect to claim 54 that Flint discloses the "displaying, on the grid, unit user labels . . ." step (Column 5, lines 29-31) as well as the "displaying on the grid, resource labels . . ." step (Column 6, lines 25-37). Appellants disagree.

Column 5, lines 29-31, of Flint referenced in the Action only discusses a user or group listed in a node 70.1. It appears that the single node icon labelled 70.1 shown in Figure 4 is intended to graphically correspond to one or more users or groups. However, nowhere does Flint disclose or suggest that user labels be displayed along an axis of a grid corresponding to the position of the node 70.1. Thus nowhere in Figure 4 or anywhere else in Flint is there disclosed or suggested the recited step of "displaying, on the grid, unit user labels corresponding to the user data, each user label labelling nodes aligned relative to the first axis of the grid".

In addition, Column 6, lines 25-37, of Flint referenced in the Action only discuss features of decision and filter nodes. Nowhere in this portion of Flint or anywhere else in Flint is there disclosed or suggested displaying resource labels along a second axis of a grid corresponding to the position of either a decision or filter node. Thus nowhere does Flint disclose or suggest the recited step of "displaying on the grid, resource labels corresponding to the services and resources data, each resource label labelling nodes aligned relative to the second axis of the grid".

The Action also states that the alignment to the first axis (for the user labels) is inherent in a GUI. It appears by this statement that the Action acknowledges that Flint does not expressly disclose at least the user labels along a first axis. However, Appellants disagree that this feature would then be inherent.

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To

establish inherency, the Office must prove through citation to prior art that the feature alleged to be inherent is "necessarily present" in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

With respect to Flint, user labels are not "necessarily present". For example, it is theoretically possible (although not disclosed) that any user or users associated with the user or group node 70.1 in Figure 4 could be displayed as a listing in a different window by double clicking on the node icon. Thus there is no inherent need in Flint for the GUI which displays the node 70.1 to include a user label associated with the node along an axis. Further, as Flint teaches that the node 70.1 may correspond to a list of users or groups (plural) (Column 5, lines 31-32), the graphical difficulty in displaying labels for a list of users in the same location on an axis of a grid for a node provides further evidence that user labels are not "necessarily present" in Flint.

In addition, claim 54 recites that the nodes in the grid correspond to the user and resource labels. Nowhere does Flint disclose or suggest that any of its described nodes correspond to both user labels and resource labels included on respective axes of a grid. Thus even if Flint discloses (which it does not) or it was inherent in Flint (which it is not) that a grid include either user labels or resource labels, nowhere does Flint disclose or suggest as recited in claim 54 that "the nodes in the grid correspond to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels".

Flint does not explicitly or inherently teach the features, relationships, and steps recited in claim 54. For all of these many reasons, Flint does not anticipate claim 54. Therefore,

Appellants respectfully submit that the 35 U.S.C. § 102(b) rejection should be withdrawn. It follows the rejections of claims 26-29 which depend from claim 54 should also be withdrawn.

### **Claim 55**

Claim 55 depends from claim 54. The Action has not shown where Flint teaches or suggests a program storage device readable by a machine which tangibly embodies a program of instructions executable by the machine. Further, as discussed previously, Flint does not disclose or suggest any machine capable of perform the method steps recited in claim 54.

Flint does not explicitly or inherently teach these recited features and relationships and therefore does not anticipate claim 55.

## **The 35 U.S.C. § 103 (a) Rejections**

### **The Applicable Legal Standards**

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features and relationships of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142 (Eighth Edition, August 2001; Rev. 2, May 2004).

The evidence of record must teach or suggest the recited features. An assertion of basic knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

A determination of patentability must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

#### **Rejection under 35 U.S.C. § 103(a) over Flint in view of Wiegel**

Claims 28, 30, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flint in view of Wiegel. These rejections are respectfully traversed.

### **Claim 28**

Claim 28 depends from claim 25 and recites that the graphical user interface further comprises an access policy editor for defining the nodes in the grid. The access policy editor comprising means for graphically assembling icons representing policy rules to define an access policy for a user-specified node.

Appellants disagree that it would be obvious to combine Wiegel with Flint. Nowhere does Flint disclose that any of its described nodes (60, 61, 62, 62.1, 62.2, 64, 64.1, 64.2, 64.3, 64.4, 66, 68, 70, 70.1, 70.2, 72, 74, 76, 78, 80, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134 etc.) individually correspond to access policies. Thus there is no teaching, suggestion or motivation in either Wiegel or Flint to provide a graphical user interface editor to define the nodes shown in Flint. Therefore the rejection of claim 28 should be withdrawn.

Further, Wiegel does not disclose or suggest the above described features and relationships recited in the parent claim 25, which are not disclosed or suggested in Flint. Thus Office has not established *prima facie* obviousness with respect to claim 28, and it is respectfully submitted the rejection should be reversed.

### **Claim 30**

Claim 30 depends from claim 29 and recites that the grid comprises inheriting nodes and defining nodes, the defining nodes corresponding to access policies expressly defined by a policy manager, the graphical user interface further comprising means for displaying inherited access policies for inheriting nodes in the grid by propagating access policies from the defining nodes in

the grid across the inheriting nodes below the defining nodes in each of the business relationship tree data structure and the resource tree data structure.

Appellants disagree that it would be obvious to combine Wiegel with Flint. Nowhere does Flint disclose that any of its described nodes (60, 61, 62, 62.1, 62.2, 64, 64.1, 64.2, 64.3, 64.4, 66, 68, 70, 70.1, 70.2, 72, 74, 76, 78, 80, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134 etc.) individually correspond to access policies. Further, nowhere in Column 13, lines 37-50, referenced in the Action or anywhere else in either Wiegel or Flint is there disclosed or suggested that the specific types of nodes shown in Flint are even capable of inheriting access policies from other nodes in the grid. Therefore, there is no teaching suggestion or motivation in either Wiegel or Flint to modify Flint to include in a graphical user interface means for displaying inherited access policies for inheriting nodes in the grid by propagating access policies from the defining nodes in the grid across the inheriting nodes below the defining nodes in each of the business relationship tree data structure and the resource tree data structure. Therefore, the rejection of claim 30 should be withdrawn.

Further, Wiegel does not disclose or suggest the above described features and relationships recited in the parent claim 29, which are not disclosed or suggested in Flint. Thus Office has not established *prima facie* obviousness with respect to claim 30, and it is respectfully submitted the rejection should be reversed.

#### **Claim 45**


Claim 45 is a multiple dependent claim depending from claims 25, 26, and 30. The Action has not shown where Flint or Wiegel teaches or suggests a computer program product comprising a computer usable medium having computer readable program code means embodied

in said medium for implementing the graphical user interface. Further, as discussed previously, Flint does not disclose or suggest any computer usable medium for implementing the graphical user interface of claim 25, 26, or 30. In addition, Wiegel does not disclose or suggest the above described features and relationships recited in the parent claims 25, 26, or 30, which are not disclose or suggested in Flint. Thus Office has not established *prima facie* obviousness with respect to claim 45, and it is respectfully submitted the rejection should be reversed.

### CONCLUSION

Each of Appellants' pending claims specifically recites elements, features, relationships, and steps that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for producing the recited invention. For these reasons, it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



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## CLAIMS APPENDIX

25. A graphical user interface for a security service for a computer network, the computer network comprising defined users, services and resources, the graphical user interface displaying

a grid comprising nodes laid out on a first and on a second axis,

user labels corresponding to defined users, each user label labeling nodes aligned relative to the first axis of the grid,

resource labels corresponding to the defined services and resources, each resource label labeling nodes aligned relative to the second axis of the grid, and

the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels.

26. The graphical user interface of claim 25 further comprising a user definition component for defining a business relationship tree data structure representing a set of the defined users and in which the user labels displayed by the graphical user interface correspond to the business relationship tree data structure.

27. The graphical user interface of claim 25 further comprising a resource definition component for defining a resource tree data structure representing a set of the defined services and resources and in which the resource labels displayed by the graphical user interface correspond to the



resource tree data structure.

28. The graphical user interface of claim 25 further comprising an access policy editor for defining the nodes in the grid, the access policy editor comprising means for graphically assembling icons representing policy rules to define an access policy for a user-specified node.

29. A graphical user interface for a security service for a computer network, the computer network comprising defined users represented by a business relationship tree data structure, the computer network further comprising services and resources, represented by a resource tree data structure, the graphical user interface comprising display means for displaying

a grid comprising nodes laid out on a first axis and on a second axis,

user labels corresponding to the users in the business relationship tree data structure, each user label labeling nodes aligned relative to the first axis of the grid, and

resource labels corresponding to the defined services and resources in the resource tree data structure, each resource label labeling nodes aligned relative to the second axis of the grid,

the nodes in the grid corresponding to access policies for the defined users and defined services and resources, corresponding to the user and resource labels.

30. The graphical user interface of claim 29, the grid comprising inheriting nodes and defining nodes, the defining nodes corresponding to access policies expressly defined by a policy manager, the graphical user interface further comprising means for displaying inherited access

policies for inheriting nodes in the grid by propagating access policies from the defining nodes in the grid across the inheriting nodes below the defining nodes in each of the business relationship tree data structure and the resource tree data structure.

45. A computer program product for use with a security service for a computer network, said computer program product comprising a computer usable medium having computer readable program code means embodied in said medium for implementing the graphical user interface of claim 25, 26, or 30.

54. A method for displaying access policies for a security service for a computer network, the computer network comprising defined users, services and resources, the method comprising the steps of:

displaying, on a computer display unit, a grid having nodes, laid out on a first and on a second axis,

displaying, on the grid, unit user labels corresponding to the user data, each user label labeling nodes aligned relative to the first axis of the grid, and

displaying on the grid, resource labels corresponding to the services and resources data, each resource label labeling nodes aligned relative to the second axis of the grid,

whereby the nodes in the grid correspond to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource

labels.

55. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method steps of claim 52, 53 or 54.

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## EVIDENCE APPENDIX

(None)

(x)

**RELATED PROCEEDINGS APPENDIX**

(None)